

Causes and Coalitions for River Conservation in the Adirondacks 1945-1996

David H. Gibson

The romantic sojourners and chroniclers of the 19th century were utterly captivated by the Hudson River in its entirety, even if that entire river were only a symbol of their world view and their most fervent beliefs. "Ever moving and rolling and free" goes the song River by Bill Staines, and so author Benson Lossing and others saw the river whole, From the Wilderness to the Sea, capturing countless details along its 300 miles. There is so much to arrest one's attention that it is forgivable to forgo a sense of the whole yet still embrace any part of any river in the northeast, be it the Upper Hudson or any other, and its working history, and ecological relationships.

What does such an embrace mean in this fourth decade of the environmental movement? It can become a stranglehold if the river is defined solely by the dry strictures of regulations in the public's name or solely by the proprietary opportunism of a private sector. If cooperative activity on behalf of a river, great or small, can be done elsewhere through river or watershed associations, it surely can be done on the Upper Hudson Riv-

er—the compelling task of uniting the river and all its interests in the name of a great partnership for what Paul Schaefer calls the "Lifeblood of the Adirondacks." In this century, at least two great periods of uniting varied interests on behalf of wild, free flowing rivers in the Adirondacks can be

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By 1945, much of the economic rationale for developing scores of hydroelectric facilities on Adirondack rivers had returned following decades of depression and war. As Paul Schaefer describes the situation, "within the boundaries of the

Adirondack Park. . . were found about thirty reservoir sites ideal from an engineer's standpoint. Most of them included not only rivers and streams but usually a number of lakes. A State Water and Control Commission by 1920 had published a book showing the locations of such proposed reservoirs, which would have inundated and destroyed many of the most prized natural features of the Adirondacks."¹

For some adventurous souls, the preservation of the South Branch of the Moose River became the greatest cause of their lives in late 1945. Threatened by two large impoundments at Higley and Panther Mountain, New Yorkers encouraged by the growing conservation movement across the nation and by their Forest Preserve successes earlier in the century took the Moose River battle to practically every city and town in the state. Paul Schaefer of Schenectady and Ed Richard of Fort Plain were their leaders. Schaefer carried the torch handed him by an older generation of preservationists led by Schenectady's John S. Apperson. To them, the issue was "extremely simple. Shall a portion of the State Forest Preserve be turned over to a small group of private interests for the exploitation of power resources? Or shall the public

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domain in the Adirondacks and Catskills remain free of such commercial exploitation, and serve the higher uses to which the land has been dedicated—for the protection of the forests, waters and wildlife in their natural state for the benefit of all of our people?”²

For Schaefer, Ed Richard and their allies, this passion was grounded in Article XIV of the State Constitution, as well as on a growing wilderness philosophy abroad in the nation, and on a growing scientific understanding of the links between river valleys and wildlife conservation. As Schaefer writes today, “it was not at first realized that one of the great resources of the Adirondacks was its abundance of wildlife, which depended upon the lowlands, the lake country, and about one million acres of wetlands for their life and livelihood. When this resource began to be realized, the conflict began.”³ Joining the conflict were river regulating boards such as the Black River Regulating Board which at the time had nearly unencumbered authority to construct dams and impound waters. Its state oversight body, the Water Power and Control Commission, had no authority to deny a Regulating Board impoundment. A diverse alliance of interests,

astounding by today’s standards (“Even the Episcopalians oppose Panther Dam,” read one headline from the mid-50s), was harnessed for a ten year grassroots struggle to defend the South Branch of the Moose River. Labor unions, garden clubs, churches, hunters, preservationists, all acted to apply pressure, and to ultimately vote at the polls. Dam proponents were

such a committee came to dam opponents as a way to stall for time, gain legitimacy, and to ensure the issues became publicly aired and debated. Chaired by John Ostrander, with Paul Schaefer volunteering as secretary, the committee provided a critical outlet for expert testimony on river hydrology, flood control and wildlife impacts from the dams. It debunked



Paul Smith's College Archives

fierce, and tried every tactic—administrative, legislative, judicial and political—over the course of a decade. For Schaefer and associates, there was much discouragement and many setbacks at every turn of a new year. The fight went to the New York Court of Appeals and the U.S. Supreme Court. Of critical importance to the dam opponents was the work of the Temporary State Committee on River Regulation. The idea for

the notion that the dams were needed for downstream flood control, and ultimately recommended the 1953 constitutional amendment requiring a public referendum for any river regulating impoundment touching on forest preserve. Today, the minutes of the committee’s public hearings stand as some of the most significant conservation documentation of the century.

“After many legislative failures and numerous court injunctions to hold the line, the Stokes Act of 1950 banned dams on the Moose River. In 1953, the Ostrander constitutional amendment banned all dams ‘to regulate the flow of streams’ in the Adirondacks if they involved the Forest Preserve. A special amendment to build Panther Mountain Dam had been passed by the Legislature.”⁴ However, on November 8, 1955, attempts by dam propo-

nents to build Panther Mountain dam by constitutional amendment were defeated by one million votes. Schaefer sums it up this way: "the people of New York State eventually determined by strong majority that the preservation of the natural features of this great Park were more important than a series of reservoirs that would drown out forests, rivers, lakes and streams."⁵

It was an epic campaign, which ranks with any of the great dam battles in the western United States because of its duration, passionate and undeniably clear evidence of public will, and long-term repercussions for the landscape and ecological character of the country's largest greenline park, the Adirondacks.

The second wave of diverse citizen involvement in the conservation of wild, free flowing rivers took place in the 1960s, and centered squarely on the Upper Hudson River in the Adirondacks. The movement's legislative and regulatory extensions during the 1970s had enormous implications for the entire Adirondack Park. Paul Schaefer, again, led the coalition, which, in terms of tactics, was for him an extension of the Moose River battle. This time two threats emerged. Hydropower remained a threat from three proposed reservoirs at Big Hadley above the confluence of the Hudson and the Sacandaga Rivers, The Glen north of Warrensburg, and Riparius south of North Creek. Almost simultaneously, the City of New York, after half a decade of drought, was seeking to quench its thirsty millions with supplementary water from the Adirondacks via two dams,

one at Kettle Mountain and a larger one at Gooley No. 1 to be built one mile below the Hudson's confluence with the Indian River. The purpose of the reservoirs was, in large measure, to release large amounts of freshwater to flush the salt front of the Hudson River below the crucial metropolitan water supply intake south of Poughkeepsie. The 180-ft. high Gooley

Dam would have flooded 14,500 acres and destroyed several thousand more in the Town of Newcomb. Schaefer writes of the widely fluctuating nature of this proposed impoundment that, "a fifty-foot drop in the water level would expose a totally destroyed forest region around Harris and Rich Lakes, the river proper and the lands near the North Woods Club."⁶ Parts of Huntington Wildlife Forest would have been inundated. Gone would be the Essex Chain Lakes, Goodnow Flow and Ord Falls.

By 1965, ten years after Panther Dam's defeat, the fractures in New York State's social, economic and political life that we take so for granted today had starkly emerged. Upstate and downstate fault lines, always present, were growing, and a sense of shared sacrifice and commonweal for the betterment of the State as a whole



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Paul Schaefer in July 1994 at Paul's Cabin, the Beaver House

diminished. If after five years of drought New York City needed plentiful Adirondack riverwater, it could be engineered and politically contemplated irrespective of its local and regional impacts. These views were current at the same time that downstaters were making environmental history by protecting the Hudson Highlands and Storm King Mountain from a pumped storage project.

However, during the 60s, the environmental forces defending the Upper Hudson had an asset which was less prominent downstate, and that was a crucial alliance with more traditional sportsmen conservationists represented by the New York State Conservation Council—a tremendously powerful alliance with roots in the past century which was to weaken during the era of environmental regulation a decade later. Finally, the influence of doc-

umentary film-making was being felt across the nation, and was to be felt on the Upper Hudson River itself.

The coalition opposed to the Upper Hudson impoundments now rallied to the banner of the Adirondack Hudson River Association, one of many focused organizations founded by Paul Schaefer and his associates. Conferences called by the organization included one at the Newcomb Central School, where hundreds of local and seasonal residents of the region, be they inclined to hunt, fish, or recreate, joined conservation organizations and politicians to denounce Gooley No. 1 dam. Another conference was called in Lake George, co-sponsored by the New York State Conservation Council. Here Paul Schaefer's call for legislative rejection of the dam was joined by a new Senator from the north country, Ronald Stafford. The Chairman of the Senate's Environmental Conservation Committee, Bernard C. Smith, pledged his support. Learned brochures examining alternative sources of drinking water for New York City were written by environmentalists with engineering backgrounds. Laurance Rockefeller, Chairman of the State Council of Parks, was so impressed with these factual arguments that he used his political leverage to lobby the State Assembly against the dam. The result was Chapter 1104 of the Laws of 1969, which prohibited the construction of reservoirs on the Upper Hudson River from Luzerne



Ken Rimany
The Upper Hudson near the confluence with the Cedar River, May 1996

to the river's source in the Adirondack Park. This prohibition also applied to the Upper Hudson's tributaries—the Boreas River, the Indian River, and the Cedar River.

Following hard on the heels of this tremendous victory for the Upper Hudson River was the work of the Temporary State Commission on the Water Supply Needs of Southeastern New York, which in 1969 recommended new water sources other than the Upper Hudson, a regional planning and administrative approach to water supply, as well as universal water metering and many water conservation measures in the City of New York. Soon to follow was the Wild, Scenic and Recreational Rivers Act of 1972. It authorized the new Adirondack Park Agency to conduct a study of Adirondack rivers for inclusion in the system.

Such a study of 1100 miles of rivers in the Park was completed in the mid-70s. As a result, in 1996 more than 1300 miles of Adirondack rivers are classified as Wild, Scenic or Recreational, with specific land management guidelines and permitted and prohibited uses along their banks. No new dams are permitted on these rivers.

These advances in regulatory safeguards to protect the beds and banks of the state's rivers were considerably influenced by a documentary film titled *Of Rivers and Men*. It was filmed and produced by the late Fred G. Sullivan, later to gain national fame from his Adirondack film-making and to be-

come development director for "The College of the Adirondacks," Paul Smith's College. Funded by the Association for the Protection of the Adirondacks and the New York State Conservation Council and co-directed by Paul Schaefer, the film's spectacular footage of free-flowing Adirondack rivers, as well as of existing problems of pollution and conflicting uses, and its recommendations for state stewardship of Adirondack rivers by legislation and administrative regulation were influential with both Governors Rockefeller and Carey. The film was shown to thousands of audiences during the decade of the 70s, and doubtlessly increased support for the fledgling Adirondack Park Agency.

By the 1990s, complex state legislation covering a vast array of en-

vironmental issues and ills had been on the books for parts of three decades, but distrust of and pessimism about government and its ability to solve societal problems was into its fourth decade. Setting priorities for reduced state spending, and identifying private sector or local partnerships for environmental activity had become a political necessity in Albany. Keeping track of how well landmark legislation passed in an earlier era was actually working—for example, the Wild, Scenic and Recreational Rivers Act—was not high on the state's priority list. Equally low on government's agenda was continued goal-setting and harnessing of multiple state agencies to carry out well coordinated policies for the Adirondacks, despite recommendations on this subject by Governor Cuomo's Commission on the Adirondacks in the 21st Century.

During the Adirondack Park's Centennial Year, 1992, a new bridge over the Upper Hudson River severely tested how well overlapping rules and state jurisdictions in the Adirondacks were accomplishing the letter and spirit of the original Rivers legislation. The bridge was of steel construction, with two spans totalling 132 feet and two concrete abutments, with a large central concrete pier near the channel's center. The bridge crossed the Upper Hudson at a section designated Scenic by the Rivers Act in 1975, and at a place where a bridge had once crossed in the 1950s. Bridge crossings related to forest industry purposes are not prohibited by the Act. The applicant was a forest product company, and the project purpose was to

enable the private entity to access timber resources across the river. A stream disturbance and crossing (Article 15) permit by the State Department of Environmental Conservation was issued in 1991. A permit by the Adirondack Park Agency was issued in 1992, and the bridge was built that summer, with work continuing in 1993.

Permit conditions of both agencies included such matters as minimizing soil erosion and disturbance, ensuring no spillage of concrete, and painting the bridge in earth tones. These and other permit conditions were met by the

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applicant. However, as Park Agency Executive Director Robert C. Glennon pointed out in a letter to Pieter V.C. Litchfield, in the absence of much inter-agency coordination or high level attention to the existing implementing regulations of the Act, the permits did not consider areas of policy set down in the Rivers Act itself, such as whether or not the proposal "preserved the river in free-flowing condition," defined as "flowing in natural condition without . . . modification of the waterway," or

whether or not the proposal "impeded the natural flow" of the river, or whether or not the proposal "interfered with the recreational use of the river." No questions were asked by either agency about whether the proposal "enhanced" the river by allowing forest management which did not "substantially interfere with the public use and enjoyment of the river and (its) shores," or engaged in "management . . . directed at preserving and restoring the natural scenic qualities of such rivers."⁷

Nobody opposed the construction of a bridge per se, but some did raise a legitimate question that this particular bridge might be in violation of the Rivers Act. Observers feel that the pier, boulder wrap placed around it and abutments markedly narrow the river channel, among other criticisms noted in correspondence from 1992 to the present day. Licensed river guides and their paying guests have questioned the impacts of construction, the obtrusive nature of this particular bridge design, and its impacts on the river channel once built. Here were users or "stakeholders" (in current dispute resolution parlance) who had not been consulted, but who make their living from the scenic and free-flowing natural resource, and who consider the nature of this bridge a violation of and threat to their environment and livelihood. They felt that the management system to oversee one of the most famed rivers in the Park had failed. Environmental organizations came relatively late to the issue, but questioned the bridge's impacts of inducing further development of structures on leased lands along the river. All wondered whether a less intrusive and

more temporary bridge could have been constructed to serve the stated purpose of the applicant. The costs of the bridge on eco-tourism values of the Upper Hudson are left out of the regulatory review process, yet all forms of tourism account for a majority of sales receipts in Essex County.

As a result of persistent critical questioning of this bridge development, the Adirondack Park Agency issued a 1993 policy memorandum to improve APA-DEC staff consultation on projects affecting the Rivers Act, and to ensure River projects are reviewed by the APA Commissioners. In 1994, groups such as the Association for the Protection of the Adirondacks called for coordinated and cooperative land use planning all along the Upper Hudson River, in partnership among landowners, river users and conservation agencies.

In 1996, the national river conservation organization American Rivers selected the Upper Hudson River as one of North America's most endangered rivers. At a press conference to announce its listing, the state organization New York Rivers United detailed threats from industrial contamination (the festering PCB issue at Fort Edward), hydropower dams outside the Adirondack Park boundary, and from shoreline development and issues of public access all along the river. On the latter question, the alliance supporting the river's threatened selection wrote the following: "A mix of public and private ownerships along the Upper Hudson is desirable and beneficial if cooperative planning for the river's future is embraced by all parties. But in the

absence of coordination, bad results can occur." Citing the bridge, the groups continued "without such planning, second home development on the river's private stretches will . . . fail to complement protected stretches, undermining goals for the Adirondack Park, for water quality, for public access and for downstream uses." A call was issued that New York State "place the entire Upper Hudson River north of Troy . . . on its high priority list for Open Space Protection. Elevating the Upper Hudson's ranking . . . will focus public and private sectors on ways to work cooperatively to achieve mutually desired objectives in land use planning and community development, utilizing a clean river and scenic shoreline to maximum advantage."⁸

With major dams banned and in spite of decades of environmental lawmaking and regulations, the rivers of the Adirondack Park, the best protected in the state, remain vulnerable. Without a clear and directed sense of public-private common stewardship, responsibility and cooperation for a truly great Adirondack Park, and in the absence of coordinated policy review by New York State, damage to some magnificent Adirondack rivers and to their scenic and tourism values will continue to occur. However, judging from a few successful negotiations among private hydropower license holders, state agencies and private intervenors on rivers elsewhere in the state—for example, the Beaver and the Salmon—it seems apparent that many interests and alternative strategies for river use, strategic public access and conservation can be addressed and, perhaps, well satisfied through a process of negotia-

tion or dispute resolution. Given revived public interest in the Upper Hudson and a growing trend toward conservation partnerships, there is good reason why public participation and dispute resolution techniques could well serve this "Lifeblood of the Adirondacks."

References

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⁴ Paul A. Schaefer, "Victory on the Moose River", (Schenectady, NY: The Forest Preserve bulletin, 1955).

⁵ Schaefer, "The Upper Hudson — Lifeblood of the Adirondacks".

⁶ Ibid.

⁷ Robert C. Glennon, from a letter to Pieter V.C. Litchfield (Ray Brook, NY: December 23, 1993), citing the Environmental Conservation Law (ECL) 15-2701 (3), ECL 15-2709 (2), 9 NY Code of Rules and Regulations 577.6 (d)(2), and ECL 15-2707 (1)(b)(2).

⁸ "The Upper Hudson River: One of North America's 'Most Endangered' Rivers for 1996." (Albany, NY: New York Rivers United, Background from a press conference, April 17, 1996).